

REMARKS

The Final Office Action dated January 21, 2010, notes that claims 44-50 are withdrawn and listed the following: claims 1 and 42 are objected to due to informalities; claims 1-3, 5-7, 9-10, 14-16, 23-39 and 41-43 stand rejected under 35 U.S.C. § 102(e) over McLaren (U.S. Patent No 6,064,794); claims 4, 11-12, 17-19 and 21-22 stand rejected under 35 U.S.C. § 103(a) over the '794 reference in view of Gupta (U.S. Patent No.7,313,808); claims 8, 13 and 20 stand rejected under 35 U.S.C. § 103(a) over the '794 reference in view of Birmingham (U.S. Patent No.6,868,224); claim 40 stands rejected under 35 U.S.C. § 103(a) over the '794 reference in view of Lane (U.S. Patent No. 6,141,486). Applicant traverses all of the rejections and, unless explicitly stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Applicant appreciates the Examiner's efforts to clarify the rationale behind the rejections and submits that the rejections appear to be based upon a simple misunderstanding of the claim limitations. For this reason, Applicant respectfully traverses each of the rejections. The misunderstanding is perhaps most easily understood in the context of the Examiner's objection to claim 1. The Examiner expresses confusion as to how "the trick play clips, which are reproduced at the trick play speed, can also be reproduced at a speed slower than the trick play speed during the trick play mode." As explained below, such aspects are easily explained through a review of Applicant's specification. This misunderstanding clearly illustrates how the Examiner's rejection fails to address the claim limitations as a whole.

Claim 1 explains that the trick play mode has a trick play speed that is substantially different from the normal speed; however, this trick play speed is not the same as the speed at which the trick play clips are played. As explained in Applicant's specification (*see, e.g.*, paragraph 008 of published version), the Examiner's "I-frame only" method can result in an extremely jerky presentation. As explained in more detail in the embodiments of Applicant's specification, however, Applicant's trick play clips can be played at a slower rate to allow the user to understand the content. The (overall) trick play speed, however, is faster because the skim clips are provided at a faster rate. In this manner, the rates of the trick play mode, the trick play clips and the fast skim clips can each be different. Thus, embodiments of

Applicant's disclosure instead provide trick play clips to the user at a low rate of speed, whereas, the overall speed of play is still high.

Looking at such aspects in another manner, the Examiner's proposed system uses "I-frame only" during trick play modes. The Examiner alleges that B/P frames located between individual I-frames would constitute the fast skim clips. Thus, this allegation appears to improperly require that a single I-frame be equated to a clip. The plain meaning of a clip is that of a short portion of video, usually part of a longer piece and not just an individual image. Thus, individual I-frames are not "clips," in the common usage of the term as they are no more than a single image rather than a video clip. This straight-forward definition is consistent with the plain meaning of the term and with Applicant's specification, which expressly differentiates from the "I-frame only" method. As such the Examiner's conclusion that "the I-frames of the program...would be the trick-play clips" is clearly erroneous.

The above misunderstandings are further supported by the Examiner's misplaced discussion regarding where the trick play mode clips and fast skim clips are (or are not) stored. Consistent with independent claim 1, Applicant's specification explains that the performance includes both the trick play portions and the fast skim portions (*see, e.g.*, FIG. 2 and associated discussion beginning at paragraph 40). Contrary to the Examiner's interpretation, claim 1 requires that start locations be selected and that an indication of the start locations be stored. For instance, a first portion 122 (FIG. 2) stores indications of the positions of the trick play clips (123, 125 and 127). When a trick play mode is entered, the system can play the first trick play clip at the slower speed and then play a fast skim clip at a higher rate. Using the stored indications the system identifies the location for the next trick play clip and plays this next trick play clip at the slower rate. This alternating of trick play clips and fast skim clips can then be repeated as necessary. The Examiner's "I-frame only" hypothetical, which would also use a separate trick play stream for this trick play mode (as taught by the '794 reference), has no apparent selected and stored indication of start locations, nor is there any apparent need or benefit to such indications.

Thus, the rejections are improper for a multitude of reasons. For instance, a single I-frame is not a clip, no correspondence has been presented for playing different clips at rates different than the trick play rate and there is not any selected and stored indication of start

locations. Each of these individual failings is sufficient to overcome the rejection and collectively the failings provide evidence of overarching misunderstandings that improperly form the basis of the rejection. For at least the aforementioned reasons, Applicant respectfully submits that the rejection is improper and requests that it be withdrawn.

With particular regard to the objection to claim 42, the Examiner presents no rationale based upon M.P.E.P. or law to support the objection. The Examiner cannot maintain objections without such support. Moreover, M.P.E.P. § 2163 and case law are clear that there is no need for word-for-word support (*i.e.*, no *in haec verba* requirement). The skilled artisan would readily understand the specification to support the existence of a physical transmission medium. The Examiner has presented no explanation, based upon the M.P.E.P. or relevant law, which would support the objection. Moreover, the Examiner has not explained why the skilled artisan would have difficulties comprehending such aspects from Applicant's disclosure, which expressly lists examples of physical transmission mediums. Applicant requests that the objection be removed.

Regarding the rejections under 35 U.S.C. § 103(a), none of the cited secondary references cure the deficiencies of the primary '794 reference. As such, the rejections are *prima facie* invalid. Moreover, the alleged combinations are not understood as the '794 reference is directed toward selecting between different streams and therefore does not contain both trick play clips and skim play clips arranged and/or used as claimed (*e.g.*, with selected and stored start indicators). Accordingly, modifications that are alleged to correspond to aspects thereof do not make sense. As such each of the rejections under 35 U.S.C. § 103(a) is improper and Applicant requests that they be withdrawn.

Patent Application Serial No. 10/560,709
Docket No. US030224US

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, David Schaeffer, of NXP Corporation at (212) 876-6170.

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